

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ANTHONY MCGEE,  
Plaintiff,

v.

MILPITAS POLICE DEPARTMENT, et al.,  
Defendants.

Case No. 23-cv-02559-VKD

**ORDER DENYING PLAINTIFF'S  
MOTION FOR RELIEF FROM  
JUDGMENT**

Re: Dkt. No. 49

On November 16, 2023, plaintiff Anthony McGee, who is representing himself, filed a “Motion for Relief [from] Final Judgment Pursuant to Rule 60(a).” Dkt. No. 49. The same day, Mr. McGee filed a notice of appeal of “all orders and final judgments in the case” to the U.S. Court of Appeals for the Ninth Circuit. Dkt. No. 50.

Mr. McGee’s motion requests reconsideration on the merits of the Court’s previous decisions denying his motions for default and dismissing his case, rather than the correction of a clerical mistake. *See* Dkt. No. 49. This is not a proper subject for a motion under Rule 60(a) of the Federal Rules of Civil Procedure. *See Garamendi v. Henin*, 683 F.3d 1069, 1077 (9th Cir. 2012) (“We have consistently interpreted Rule 60(a) to allow a district court to correct omissions so long as those corrections are limited to clarification of matters intended to be implied or subsumed by the original judgment, rather than a change of course or a modification to the intended legal effect of a judgment.”). Even if the Court were to construe Mr. McGee’s filing as a motion under Rule 60(b), it lacks jurisdiction to grant it because a notice of appeal has been filed. *Scott v. Younger*, 739 F.2d 1464, 1466 (9th Cir. 1984).

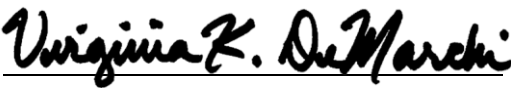
Accordingly, the Court denies Mr. McGee’s motion for relief under Rule 60(a).

United States District Court  
Northern District of California

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**IT IS SO ORDERED.**

Dated: November 21, 2023

  
VIRGINIA K. DEMARCHI  
United States Magistrate Judge